



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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November 17, 2015

VIA ECF AND COURTESY COPY BY FACSMILE

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

**Re: SEC v. The Committee on Ways and Means of the U.S. House
of Representatives, et al. (14 Misc. 00193) (PGG)**

Dear Judge Gardephe:

I write on behalf of the Securities and Exchange Commission in opposition to the letter motion of counsel for Respondents the Committee on Ways and Means of the U.S. House of Representatives (the "Committee") and Brian Sutter (DE 36), seeking a 35-day extension of the deadline set by the Court in its November 13, 2015 Order (the "Order"), for compliance with the subpoenas the Commission issued to them approximately 18 months ago on May 6, 2014.

Respondents insist their adjournment request is necessary to allow them time to seek a stay of the Order pending appeal (should they decide to appeal), or to comply with the Order (should they choose to comply), and claim the Commission flatly rejected their request for a 35-day adjournment. In fact, the Commission offered to revisit Respondents' request with them as the November 30 deadline approaches, should compliance with the production and privilege log requirements in the Order by then prove impracticable.¹ (See November 16, 2015 email from Commission counsel to Respondents' counsel, Exhibit A attached hereto.) If Respondents' request is motivated by an intention to comply with the Order, they should have no objection to first making an effort to do so before concluding more time is necessary, particularly when they

¹ According to the Commission's calculation (and contrary to Respondents' suggestion), pursuant to Fed. R. Civ. P. 6 and this Court's designation of November 27 as a Court holiday, the Order requires production from Respondents of responsive documents and their privilege logs by Monday, November 30, 2015, not on or before Thanksgiving Day.

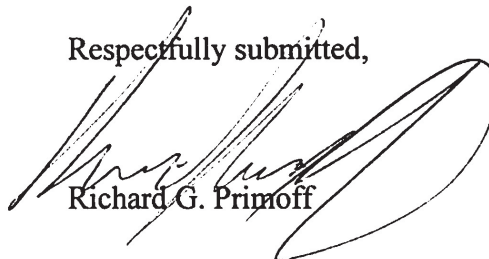
The Hon. Paul G. Gardephe
November 17, 2015
Page 2 of 2

have had ample time to review and copy the narrow set of responsive, requested documents in anticipation of a Court order requiring their prompt production.

If, on the other hand, Respondents intend to appeal and seek a stay of the Order, neither that decision (if not already made) nor the pursuit of a stay supports their adjournment request. The Committee's Chairman, Kevin Brady, is an experienced member of the Committee who was selected nearly two weeks ago on November 5 (and previously was the Chairman of the Health Subcommittee).² Counsel's speculation that Sutter "may not be immediately available to provide direction" and the general description of their caseload similarly provide no basis for the suggestion they cannot file an appeal and request a stay by November 30.

The prejudice to the Commission should the Court grant Respondents' request, however, would be substantial. Respondents' non-compliance with the Commission's subpoenas has delayed the Commission's investigation. Even in the absence of an appeal now, the Commission has no assurance that production of relevant information in response to its lawful subpoenas (Order at 11) will be forthcoming without the need for further judicial intervention. The Court should not allow Respondents to exacerbate the delay the Commission has already faced, and may continue to face, in furthering its statutory mission on behalf of the investing public, by granting an unnecessary and unwarranted delay in this litigation.

Respectfully submitted,



Richard G. Primoff

cc: Counsel for Respondents (Via ECF and courtesy copy by email)

² <http://waysandmeans.house.gov/brady-ready-to-advance-speaker-ryans-pro-growth-agenda-at-ways-and-means/> (noting Chairman Brady's statement that he was "ready to hit the ground running....")